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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,955	01/08/2002	Brent Anderson	113937-002	4496

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EXAMINER

PIAZZA CORCORAN, GLADYS JOSEFINA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

28
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Interview Summary	Application No. 10/042,955	Applicant(s) ANDERSON ET AL.	
	Examiner Gladys JP Corcoran	Art Unit 1733	

All participants (applicant, applicant's representative, PTO personnel):

(1) Gladys JP Corcoran. (3) _____

(2) Joe Fuchs. (4) _____

Date of Interview: 20 April 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____

Claim(s) discussed: 1,27 and 64.

Identification of prior art discussed: Kristen.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

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Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant telephoned Examiner for a telephonic interview to discuss a proposed Amendment (copy attached to Interview Summary). Examiner indicated that the preambles of claims 1 and 27 should reflect the new limitations of forming a container. Examiner indicated that claim 64 should include that both of the sidewalls are formed from the layered structure in order to avoid possible 112 rejections. Examiner indicated that a new declaration should be filed including the correction of reciting paragraph 2 of the memorandum and including the memorandum as an attachment to the declaration. Examiner noted that the Amendment to claim 1 took out the term "outer" however the arguments section still refers to the outer surface; the claims and the arguments should be consistent. Examiner indicated that the proposed Amendments appear to overcome the current prior art rejections based on Kristen, however further search and/or consideration will be required. Applicant indicated prior art that may be relevant to the newly presented claims include US Patent Nos. 5,728,086 and 6,607,097 and WO 01/36276 and that arguments distinguishing the claims over these references will be provided in the next Response.

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FACSIMILE COVER SHEET

April 15, 2005

Total Number of Pages: 15 (including this page)

To:	Company	Fax No.	Phone No.
Ex. Gladys Josefina Piazza Corcoran	US PTO	(571) 273-1214	

From:	Joseph A. Fuchs JFuchs@EverestIP.com
Direct Dial:	(847) 919-5293
Client/Matter	113937-002
Re:	B.Anderson Serial No. 10/042,955
Message:	Enclosed is a proposed Amendment for discussion purposes only.

If this transmission is incomplete, please call (847) 272-3400

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Atty Dkt. No. 113937-002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application Of:
Brent Anderson

For: METHOD FOR TEXTURING
A FILM

Serial No.: 10/042,955

Filed: January 8, 2002

Examiner: Gladys Josefina Piazza Corcoran

Art Unit: 1762

Conf. No. 4496

DRAFT

FOR DISCUSSION PURPOSES ONLY - DO NOT ENTER

AMENDMENT AND RESPONSE TO OFFICE ACTION OF APRIL 1, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22202

Sir:

In response to the Office Action mailed April 1, 2005, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 10 of this paper.

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Listing of Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

Claim 1 (currently amended): A method for treating a surface of a layered polymeric structure suitable for forming a fluid container, the method for treating comprising:

- providing a first non-molten polymeric sheet of material;
- providing a second non-molten polymeric sheet of material;
- positioning the first non-molten sheet or the second non-molten sheet to overlap at least a portion of the other sheet to define an interference zone;
- directing a first molten polymeric material into the interference zone to adhere the first non-molten sheet to the second non-molten sheet to form the layered structure; and
- texturing an outer a surface of the first non-molten sheet or the second non-molten sheet utilizing a chill roll to form a pattern on the outer surface, the pattern being dimensioned to form fluid pathways on the outer surface to assist in removing fluid from the surface;
- forming a container having opposed sidewalls from the layered structure, the opposed sidewalls having fluid contacting surfaces facing a chamber of the container and having the fluid pathways positioned on the fluid contacting surfaces of each of the opposed sidewalls, and
- providing an access member fixedly attached to one of the sidewalls for providing fluid access to the chamber.

Claim 2 (canceled).

Claim 3 (previously presented): The method of claim 1 wherein the first non-molten polymeric sheet is a monolayer structure.

Claim 4 (previously presented): The method of claim 1 wherein the first non-molten polymeric sheet is a multiple layer structure.

Claim 5 (previously presented): The method of claim 1 wherein the first non-molten polymeric sheet is selected from the group consisting of polyolefins, ethylene and vinyl acetate copolymers, ethylene copolymerized with carboxylic acids having from 3 to 20 carbons and ester

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and anhydride derivatives thereof, ethylene and vinyl alcohol copolymers, polyamides, polyesters, polyvinyl vinyl chloride, PVDC and elastomers.

Claim 6 (original): The method of claim 5 wherein the polyolefins are selected from homopolymers and copolymers.

Claim 7 (original): The method of claim 6 wherein the copolymers are selected from copolymers of ethylene and α -olefins having from 3 to 20 carbons.

Claim 8 (original): The method of claim 4 wherein the multiple layered structure comprises a first layer of an ethylene and α -olefin copolymer and a second layer of an ethylene and vinyl alcohol copolymer.

Claim 9 (canceled).

Claim 10 (previously presented): The method of claim 5 wherein the second non-molten polymeric sheet is selected from the group consisting of polyolefins, ethylene and vinyl acetate copolymers, ethylene copolymerized with carboxylic acids having from 3 to 20 carbons and ester and anhydride derivatives thereof, ethylene and vinyl alcohol copolymers, polyamides, polyesters, polyvinyl vinyl chloride and elastomers.

Claim 11 (previously presented): The method of claim 10 wherein the second non-molten polymeric sheet is a polyamide.

Claim 12 (original): The method of claim 11 wherein the polyamide is selected from nylon 6,6, nylon 6, and nylon 6,12.

Claim 13 (original): The method of claim 1 wherein the step of directing a first polymeric material comprises the step of extruding a molten polymeric material.

Claim 14 (previously presented): The method of claim 13 wherein the molten polymeric material is a polyolefin.

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Claim 15 (previously presented): The method of claim 13 wherein the molten polymeric material is a homopolymer of ethylene.

Claim 16 (canceled).

Claim 17 (currently amended): The method of ~~claim 16~~ claim 1 wherein the step of texturing comprises the step of contacting the first sheet or the second sheet with a surface having a pattern.

Claim 18 (original): The method of claim 17 wherein the surface is provided on a roll.

Claim 19 (previously presented): The method of claim 18 wherein the surface is provided on the chill roll.

Claim 20 (previously presented): The method of claim 18 wherein the surface is provided on a backup roll.

Claim 21 (original): The method of claim 17 wherein the pattern is carried on two rolls.

Claim 22 (original): The method of claim 18 wherein the pattern extends outward from the surface of the roll.

Claim 23 (original): The method of claim 18 wherein the pattern extends inward from the surface of the roll.

Claim 24 (previously presented): The method of claim 18 wherein the chill roll is metal.

Claim 25 (previously presented): The method of claim 18 further comprising a backup roll of metal, rubber, plastic, or rubber.

Claim 26 (previously presented): The method of claim 18 wherein the pattern comprises a plurality of spaced objects.

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Claim 27 (currently amended): A method for treating a surface of a layered polymeric structure suitable for forming a fluid container, the method of treating comprising:

providing a first non-molten sheet of a first polymeric material selected from the group consisting of polyolefins, ethylene and vinyl acetate copolymers, ethylene copolymerized with carboxylic acids having from 3 to 20 carbons and ester and anhydride derivatives thereof, ethylene and vinyl alcohol copolymers, polyamides, polyesters, polyvinyl vinyl chloride and elastomers;

providing a second non-molten sheet of a second polymeric material;

positioning the first non-molten sheet or the second non-molten sheet to overlap at least a portion of the other sheet to define an interference zone;

directing a molten third polymeric material into the interference zone to adhere the first non-molten sheet to the second non-molten sheet to form the layered structure; and

texturing the first non-molten sheet to form a pattern on ~~an outer~~ a surface of the first non-molten sheet utilizing a chill roll, the pattern being dimensioned to form fluid pathways on the ~~outer~~ surface to assist in removing fluid from the surface;

forming a container having a chamber defined by opposed sidewalls having one of the opposed sidewalls formed from the layered structure and having the fluid pathways positioned facing the chamber; and

providing an access member fixedly attached to a planar surface of one of the sidewalls for providing fluid access to the chamber.

Claim 28 (canceled).

Claim 29 (previously presented): The method of claim 27 wherein the second polymeric material is selected from the group consisting of polyolefins, ethylene and vinyl acetate copolymers, ethylene copolymerized with carboxylic acids having from 3 to 20 carbons and ester and anhydride derivatives thereof, ethylene and vinyl alcohol copolymers, polyamides, polyesters, polyvinyl vinyl chloride, PVDC and elastomers.

Claim 30 (original): The method of claim 29 wherein the step of texturing is carried out essentially simultaneously with the step of adhering the first sheet to the second sheet.

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Claim 31 (canceled).

Claim 32 (previously presented): The method of claim 27 wherein the step of directing a third polymeric material into the interference zone comprises the step of applying an adhesive material.

Claim 33 (previously presented): The method of claim 30 wherein the step of texturing comprises the step of contacting the first non-molten sheet with a surface having a pattern.

Claim 34 (original): The method of claim 33 wherein the surface is provided on a roll.

Claim 35 (previously presented): The method of claim 34 wherein the surface is provided on the chill roll.

Claim 36 (previously presented): The method of claim 34 wherein the surface is provided on a back-up roll.

Claim 37 (previously presented): The method of claim 33 wherein the surface is carried on a second roll.

Claim 38 (original): The method of claim 34 wherein the pattern extends outward from the surface of the roll.

Claim 39 (original): The method of claim 34 wherein the pattern extends inward from the surface of the roll.

Claim 40 (original): The method of claim 33 wherein the pattern is generally a checkerboard pattern.

Claim 41 (original): The method of claim 33 wherein the pattern is defined by a series of spaced protuberances.

Claim 42 (original): The method of claim 41 wherein the protuberances have a generally circular shape.

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Claim 43 (original): The method of claim 41 wherein the protuberances have a polygonal shape.

Claim 44 (original): The method of claim 41 wherein the protuberances have an irregular shape.

Claim 45 (original): The method of claim 41 wherein the protuberances have a generally teardrop shape.

Claim 46 (original): The method of claim 41 wherein the protuberances have a first set of protuberances with a first shape and a second set of protuberances with a second shape different from the first shape.

Claim 47 (original): The method of claim 41 wherein the protuberances are generally S-shaped.

Claim 48 (previously presented): The method of claim 30 wherein the first non-molten sheet is a monolayer structure or a multiple layered structure.

Claim 49 (previously presented): The method of claim 30 wherein the first non-molten sheet is a monolayer structure.

Claim 50 (previously presented): The method of claim 30 wherein the first non-molten sheet is a multiple layered structure.

Claim 51 (original): The method of claim 50 wherein the multiple layered structure has a first layer and a second layer.

Claim 52 (original): The method of claim 51 wherein the first layer is a polyolefin.

Claim 53 (original): The method of claim 52 wherein the second layer is a barrier material.

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Claim 54 (original): The method of claim 53 wherein the barrier material comprises ethylene vinyl alcohol copolymer or PVDC.

Claim 55 (original): The method of claim 51 wherein the first layer is an ethylene and α -olefin copolymer and the second layer is ethylene and vinyl alcohol copolymer.

Claim 56 (previously presented): The method of claim 48 wherein the second non-molten sheet is a monolayer structure or a multiple layered structure.

Claim 57 (previously presented): The method of claim 56 wherein the second non-molten sheet contains a layer of a polyamide or a layer of a polyester.

Claim 58 (previously presented): The method of claim 57 wherein the third polymeric material is a polyolefin.

Claim 59 (previously presented): The method of claim 58 wherein the third polymeric material is a homopolymer of ethylene or a copolymer of ethylene and α -olefin having from 3 to 20 carbons.

Claim 60 (previously presented): The method of claim 59 wherein the third polymeric material is a homopolymer of polyethylene.

Claim 61 (new): A method forming a container comprising:
providing a first non-molten polymeric sheet of material;
providing a second non-molten polymeric sheet of material;
positioning the first non-molten sheet or the second non-molten sheet to overlap at least a portion of the other sheet to define an interference zone;
directing a first molten polymeric material into the interference zone to adhere the first non-molten sheet to the second non-molten sheet to form the layered structure;
texturing a surface of the first non-molten sheet or the second non-molten sheet utilizing a chill roll to form a pattern on the outer surface, the pattern being dimensioned to form fluid pathways on the surface to assist in removing fluid from the surface; and

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forming a container having opposed sidewalls sealed along peripheral edges to define a fluid tight chamber, and at least one sidewall formed from the layered structure, the at least one sidewall having a fluid contacting surface facing the chamber of the container and having the fluid pathways positioned on the fluid contacting surface, the container further having an access member fixedly attached to one of the opposed sidewalls for withdrawing fluid from the fluid tight chamber.

Claim 62 (new): The method of claim 61 wherein the access member is a fitment for filling and withdrawing fluid from the chamber.

Claim 63 (new): The method of claim 62 wherein the fitment is adapted to be connected to a hose.

Claim 64 (new): The method of claim 61 wherein the each of the opposed sidewalls have fluid contacting surfaces and each of the fluid contacting surfaces have the fluid pathways positioned thereon.

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REMARKS

This Amendment is being filed in response to the Office Action mailed April 1, 2005. Applicants respectfully request reconsideration and allowance of the pending claims in the present application in view of the foregoing amendments and remarks below. By this Amendment, Applicants have added claims 61-64. Accordingly, claims 1, 3-8, 10-64 are pending in this Application.

The Examiner has rejected claims 16-26 under 35 U.S.C. §112, first paragraph, "as failing to comply with the written description requirement." (OA, pg. 2, ¶ 2) The Examiner has also rejected "claims 1, 3-8 and 10-60 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." (OA, pg. 3, ¶¶ 4 and 5) The Examiner states: "Claim 1 is unclear in light of claim 16."

While Applicants disagree with the rejection of claim 16, it has canceled claim 16 and has amended claim 17 to depend from claim 1 to expedite the allowance of this Application. Further, in view of the amendments to claims 1 and 17, Applicants submit the difference between these claims is clear. Accordingly, Applicants respectfully request a withdrawal of the rejections under 35 U.S.C. §112, first and second paragraphs.

The Examiner has also made ten separate rejections of the pending claims under 35 U.S.C. §103(a) in paragraphs 8-17 of the Office Action. Each of the first six rejections requires *Mallik* (U.S. Patent No. 6,533,884) as a part of the rejection (OA pgs. 4-5, ¶¶ 8-13). In Applicants' prior filed Reply to Office Action of December 6, 2004, it submitted a Declaration under 37 C.F.R. 1.131 by joint inventor Brent Anderson averring that he conceived the claimed invention prior to November 3, 2000, and worked on this matter diligently thereafter. Applicants inadvertently failed to attach a Memorandum referred in the Anderson declaration and have submitted this Memorandum herewith. Further, in paragraphs 9 and 10 of Mr. Anderson's Declaration should refer to paragraph 2 of the memorandum instead of paragraph 8. Accordingly, *Mallik* should be excluded as a reference by virtue of this Declaration. Further, the Examiner cannot rely on *Mallik* in any combination, and, therefore, Applicants respectfully request a withdrawal of the six rejections requiring *Mallik*.

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The Examiner has rejected "claims 1, 3-6, 10-20, 22-27, 29, 30, 32-36, 38-41, 43, 48-54, 56-60 under 35 U.S.C. 103 (a) as being unpatentable over *Kristen* (US Patent No. Re 34, 929) in view of *Araki et al.* (WO 00/18836 with EP 1153974 as the English equivalent) as further taken in view of *Mainstone et al.* (US Patent No. 5,006,056). (OA, pg. 5, ¶ 14) Applicants respectfully traverse this rejection.

Kristen discloses a plastic bag for vacuum sealing having two panels. The two panels are each made of at least two layers. The bag is initially formed as a rectangular pouch having three sides sealed and having one open side for filling of the bag. *Kristen* also discloses forming bags from a roll of an open tube where the bag is cut to its desired length and one end is sealed to form a pouch sealed on three sides, and the fourth side is sealed after the pouch has been filled with the material to be contained. Air can be evacuated from the bag by applying a suction to the open end with a nozzle 12 from a vacuum pump inserted into its open end (FIG. 1). After air is evacuated from the pouch the open end is heat sealed to maintain the chamber of the bag in an evacuated state.

The bag of *Kristen* has "a plurality of raised protuberances comprising pattern 24 (FIG. 2) are formed in a generally regular and waffle-like pattern on the inner surface of at least one of the panels to project outwardly therefrom towards the inner surface of the other panel... As further shown in FIG. 3, the protuberances may be solely formed on the inner surface of one panel with the inner surface of the other panel being flat and uninterrupted." (Col. 4, lines 15-24, emphasis original) FIGS. 5 and 7 also show a container having one panel with a pattern with the opposing panel being flat and uninterrupted.

Mainstone discloses a film extrusion apparatus including a quickly replaceable chill roll. *Mainstone* discloses that the chill roll is the heaviest and most expensive component of the apparatus and may be "chrome plated, matte finished, or provided with an embossed surface to be reproduced on the film." (Col. 1, lines 22-33) *Mainstone* further discloses an extrusion coating apparatus to apply a film 12 of thermoplastic material to a preformed web 13. (Col. 2, lines 64-68 and FIG. 1) *Mainstone* further discloses the apparatus could be used "as an extrusion laminator to bond the web 13 to a second web 18 which is guided by a suitable series of rolls to

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the nip of rolls 10 and 15 from above roll 10, as indicated in broken lines in FIG. 1, with the film 12 then being delivered to the nip between the webs 13 and 18." (Col. 3, lines 9-16)

Araki discloses a resin composition suitable for a lamination process and laminated material suitable for forming bags for solid, liquid and gas.

Claim 1 has been amended to recite a method for treating a surface of a layered polymeric structure suitable for forming a fluid container. The method for treating comprising: (1) providing a first non-molten polymeric sheet of material; (2) providing a second non-molten polymeric sheet of material; (3) positioning the first non-molten sheet or the second non-molten sheet to overlap at least a portion of the other sheet to define an interference zone; (4) directing a first molten polymeric material into the interference zone to adhere the first non-molten sheet to the second non-molten sheet to form the layered structure; (4) texturing a surface of the first non-molten sheet or the second non-molten sheet utilizing a chill roll to form a pattern on the surface, the pattern being dimensioned to form fluid pathways on the outer surface to assist in removing fluid from the surface; (5) forming a container having opposed sidewalls from the layered structure, the opposed sidewalls having fluid contacting surfaces facing a chamber of the container and having the fluid pathways positioned on the fluid contacting surfaces of each of the opposed sidewalls, and (6) providing an access member fixedly attached to one of the sidewalls for providing fluid access to the chamber.

Claim 27 differs from claim 1 in reciting the step of "forming a container having a chamber defined by opposed sidewalls having one of the opposed sidewalls formed from the layered structure and having the fluid pathways positioned facing the chamber; and providing an access member fixedly attached to a planar surface of one of the sidewalls for providing fluid access to the chamber."

Claim 61, added by this Amendment, differs from claim 1 by reciting a method for forming a container. Claim 61 further recites the step of "forming a container having opposed sidewalls sealed along peripheral edges to define a fluid tight chamber, and at least one sidewall formed from the layered structure, the at least one sidewall having a fluid contacting surface

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facing the chamber of the container and having the fluid pathways positioned on the fluid contacting surface, the container further having an access member fixedly attached to one of the opposed sidewalls for withdrawing fluid from the fluid tight chamber."

Kristen teaches away from having an access member fixedly attached to a container sidewall. Instead, *Kristen* discloses an evacuation member that temporarily inserts within an opening of the pouch until air is evacuated from the chamber and then the evacuation member is removed and an end of the pouch is sealed to form a fluid tight container. Accordingly, the Examiner has failed to present a *prima facie* case of obviousness of the claims as amended herein, and, therefore, Applicants respectfully request a withdrawal of the rejection of claims 1, 3-6, 10-20, 22-27, 29, 30, 32-36, 38-41, 43, 48-54 and 56-60.

The Examiner has made additional rejection of claims in paragraphs 15-17 requiring *Kristen* as the primary reference. Because *Kristen* teaches away from an access member fixedly attached to a sidewall of a container, these rejections also fail to present a *prima facie* case of obviousness, and, therefore, applicants respectfully request a withdrawal of these rejections.

Conclusion

In view of the foregoing, Applicants submit the claims are in condition for allowance and respectfully request an early notice of the same.

Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

Date:

BY

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Northbrook, Illinois 60065
Phone: (847) 272-3400

To: John Schwan
From: Brent Anderson
Re: Bag evacuation

Here are some of the advantages and disadvantages of the trials that I am considering for your bag evacuation project.

- 2) Embossing/Texturing poly layer during extrusion coating/laminating with a modified chill roll.**
Advantages- Inexpensive and may be patentable.
Disadvantages- Could not use your inner sheet and costly test.

Call with any questions or suggestions!